

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS No. 3358 of 1996 to 3385 of 1996

And

FIRST APPEALS No.3386 to 3429 of 1996

And

FIRST APPEALS No. 3431 of 1996 to 3460 of 1996

With

FIRST APPEALS No. 3462 to 3523 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

and

Hon'ble MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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The State of Gujarat &  
The Executive Engineer, Baroda. : Appellants.  
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Appearance:

Shri M.R. Anand, Government Pleader with Shri Kamal  
M. Mehta, A.G.P., for the appellants.

Shri R.N. Shah, Advocate for the respondents.  
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CORAM : B.C.PATEL, J. and H.R. Shelat, J.  
Date of decision: 23/12/96

ORAL JUDGEMENT: (Per: B.C. Patel, J.)

Admit. At the request of learned counsels, we are taking these matters for final hearing today.

2. This four group of appeals are arising out of four different group of awards rendered by the learned Assistant Judge, Godhra in Reference cases No. 118 of 1992 with other 27 references, 323 of 1992 with other 43 references, 292 of 1992 with other 29 references, and 47 of 1992 with other 61 references. As the question raised by Mr. Mehta, the learned A.G.P. is common in all the four group of appeals, we think it proper to dispose of these appeals by this common judgment.

3. With a view to give the details, it is necessary to refer the awards. It appears that so far as the group of First Appeals No. 3358 of 1996 and 3462 of 1996 are concerned, the notification under Section 4 was published on 7.1.1982 for acquisition of lands situated at the outskirts of village Garial, for the Government project for construction of a reservoir in District Panchmahals. After considering the objections, the Land Acquisition Officer determined the price of the land in question at the rate of Rs. 1.75 per sq. meter. Being aggrieved by the decision rendered by the Land Acquisition Officer, references came to be filed. Before the court it was urged that the lands are fertile lands and the crops are regularly reaped. It was also contended that the lands are of potential value and the Land Acquisition Officer has not taken into consideration the factors properly for determining the market value of the lands acquired. The Land Acquisition Officer was of the view that the value of the land in Village at Garial was Rs. 25,000/- per hectare. He came to the conclusion that the market value of the land in question was at Rs. 17,500/- per hectare without assigning any reason. The claimants, therefore, demanded higher amount. It appears that neither the claimants nor the Land Acquisition Officer adduced any evidence except an award in Land Acquisition Case No. 238 of 1988 (Exh. 21 - certified copy in one group and Exh.22 in other group) made by the Land Acquisition Officer in respect of land situated in the outskirts of village Garial. The same is considered as a comparable award in view of various pronouncements referred in paras 9 and 10 of the award (Reference No. 118 of 1992)

4. So far as group of First Appeals No. 3386 of 1996 and 3431 of 1996 are concerned, the lands in question are situated at village Bhamariya,

District-Panchmahals, adjoining to village Garial. The notifications were issued on 24.12.1981. The lands situated were acquired for Kadana project. The Land Acquisition Officer came to the conclusion that Rs. 17,500/- could be awarded per hectare, i.e. at Rs. 1.75 per sq. meter. Being aggrieved by the said decision, the claimants made an application and ultimately references were forwarded to the court for deciding the same in accordance with law. The contentions which are raised by the claimants are similar to those raised in other group of appeals and therefore we do not repeat the same. In these group of matters, no evidence is adduced by any party, except reliance placed by claimants on an award being L.A.R. Case No. 238 of 1988, vide Ex. 25 in one group of appeals and Ex. 26 in other group of appeals.

5. It is also clear from the text of the judgments that possession of the lands under appeals and also of the lands covered by reference No. 238 of 1988, on which reliance is placed by claimants was taken at the same time. Mr. Shah, learned counsel pointed out this aspect specifically at Page 8 and submitted that when possession was taken at the same time and merely because the notification was issued at a later point of time, there is no reason why the claimants should not be treated in the same way as the claimants vide Exh. 21 (Ref.No. 238 of 1988) were treated, more particularly when the decision rendered vide Exh. 21 is confirmed by the High Court vide judgment dated 11th January 1994 delivered in First Appeals No. 2760 and 2785 of 1993 (Coram: V.H. Bhairavia & Y.B. Bhatt, JJ.). From the Judgment of the trial courts, it is clear that the Trial Court has considered the market value of the land keeping in mind the rate of inflation. The Trial Court in para 16 has specifically discussed this aspect in award which is subject matter of First Appeal No. 3386 of 1996. In the case on which reliance is placed, i.e. Exh. 21, the relevant date for determining the market value was 10.5.1984, while in Appeal No. 3386 of 1996, for determining the market value of the land under acquisition, the relevant date is 24-12-1981. Considering the market value then prevailing in the year 1984, the Trial Court had taken into account the rate of inflation at 4 % per year and arrived at the conclusion. In our opinion, the Trial Court has rightly considered 12% as a figure to be deducted from the amount calculated in other case on the basis of Notification dated 10-5-1984. Mr. Mehta, learned Assistant Government Pleader submitted that 12 percent is very conservative and it should be 15%. We put a pertinent question as to how according to his opinion it should be 15% and not 12

percent ? Considering the index of 1981 the price is to be fixed and he fairly stated that neither such details are with him nor such details are placed on record. The amount fixed in two group of appeals varies. In one group of appeals Nos. 3431 of 1996 and 3386 of 1996, wherein the Notification was published on 24-12-1981, the Trial Court awarded total compensation at the rate of Rs. 10.35 per sq.meter, while in other group of appeals Nos. 3358 of 1996 and 3462 of 1996, wherein the Notification was published on 7-1-1982, the Trial Court awarded a total compensation of Rs. 10.81 per sq.meter, whereas for the lands in respect of Exh. 21 for which notification was issued on 10-5-1984, the Court had awarded compensation at the rate of Rs.11.75 per sq.meter.

6. Looking to the time gap and the amount awarded, we find no substance in the contention raised by the appellants and we are of the view that the Trial Court has relied on an instance which is ultimately confirmed by this Court. We, therefore, find no reason to interfere with the awards in question. Hence all the appeals are dismissed with no order as to costs.

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